

violations, upon conviction, may be punished by a like fine, imprisonment or both (see 22 U.S.C. 3105(c)).

§ 801.7 Rules and regulations for the BE-13, Survey of New Foreign Direct Investment in the United States.

The BE-13, Survey of New Foreign Direct Investment in the United States is conducted to collect data on the acquisition or establishment of U.S. business enterprises by foreign investors and the expansion of existing U.S. affiliates of foreign companies to establish a new production facility. All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.2 and §§ 801.4 through 801.6 are applicable to this survey. Specific additional rules and regulations for the BE-13 survey are given in paragraphs (a) through (d) of this section. More detailed instructions are given on the report forms and instructions.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE-13, Survey of New Foreign Direct Investment in the United States, contained herein, whether or not they are contacted by BEA. Also, persons, or their agents, that are contacted by BEA about reporting in this survey, either by sending them a report form or by written inquiry, must respond in writing pursuant to this section. This may be accomplished by filing the properly completed BE-13 report (BE-13A, BE-13B, BE-13C, BE-13D, BE-13E, or BE-13 Claim for Exemption) within 45 days of being contacted.

(b) *Who must report.* A BE-13 report is required of any U.S. company in which:

(1) A foreign direct investment in the United States relationship is created;

(2) An existing U.S. affiliate of a foreign parent establishes a new U.S. legal entity, expands its U.S. operations, or acquires a U.S. business enterprise, or;

(3) A U.S. business enterprise that previously filed a BE-13B or BE-13D indicating that the established or expanded entity is still under construction. Foreign direct investment is defined as the ownership or control by one foreign person (foreign parent) of 10 percent or more of the voting securities of an incorporated U.S. business

enterprise, or an equivalent interest of an unincorporated U.S. business enterprise, including a branch.

(c) *Forms to be filed.* Depending on the type of investment transaction, U.S. affiliates shall report their information, on one of six forms—BE-13A, BE-13B, BE-13C, BE-13D, BE-13E, or BE-13 Claim for Exemption.

(1) Form BE-13A—Report for a U.S. business enterprise when a foreign entity acquires a voting interest (directly, or indirectly through an existing U.S. affiliate) in that enterprise, segment, or operating unit and:

(i) The total cost of the acquisition is greater than \$3 million;

(ii) The U.S. business enterprise will operate as a separate legal entity, and;

(iii) By this acquisition, at least 10 percent of the voting interest in the acquired entity is now held (directly or indirectly) by the foreign entity.

(2) Form BE-13B—Report for a U.S. business enterprise when a foreign entity, or an existing U.S. affiliate of a foreign entity, establishes a new legal entity in the United States and:

(i) The projected total cost to establish the new legal entity is greater than \$3 million, and;

(ii) The foreign entity owns 10 percent or more of the new business enterprise's voting interest (directly or indirectly).

(3) Form BE-13C—Report for an existing U.S. affiliate of a foreign parent when it acquires a U.S. business enterprise or segment that it then merges into its operations and the total cost to acquire the business enterprise is greater than \$3 million.

(4) Form BE-13D—Report for an existing U.S. affiliate of a foreign parent when it expands its operations to include a new facility where business is conducted and the projected total cost of the expansion is greater than \$3 million.

(5) Form BE-13E—Report for a U.S. business enterprise that previously filed a BE-13B or BE-13D indicating that the established or expanded entity is still under construction. This form will collect updated cost information and will be collected annually until construction is complete.

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(6) Form BE-13 Claim for Not Filing—Report for a U.S. business enterprise that:

(i) Was contacted by BEA but does not meet the requirements for filing forms BE-13A, BE-13B, BE-13C, or BE-13D; or

(ii) Whether or not contacted by BEA, met all requirements for filing on Forms BE-13A, BE-13B, BE-13C, or BE-13D except the \$3 million reporting threshold.

(d) *Due date.* The BE-13 forms are due no later than 45 days after the acquisition is completed, the new legal entity is established, the expansion is begun, or the cost update is requested.

[79 FR 47575, Aug. 14, 2014, as amended at 79 FR 53291, Sept. 9, 2014; 79 FR 69759, Nov. 24, 2014]

§ 801.8 Requirements for the BE-10, Benchmark Survey of U.S. Direct Investment Abroad—2014.

A BE-10, Benchmark Survey of U.S. Direct Investment Abroad will be conducted covering 2014. All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 and 801.2 and §§ 801.4 through 801.6 are applicable to this survey. Specific additional requirements for the BE-10 survey are given in paragraphs (a) through (d) of this section. More detailed instructions are given on the report forms and instructions.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE-10, Benchmark Survey of U.S. Direct Investment Abroad—2014, contained herein, whether or not they are contacted by BEA. Also, a person, or their agent, that is contacted by BEA about reporting in this survey, either by sending them a report form or by written inquiry, must respond in writing pursuant to this section. This may be accomplished by:

(1) Certifying in writing, by the due date of the survey, to the fact that the person had no direct investment within the purview of the reporting requirements of the BE-10 survey;

(2) Completing and returning the “BE-10 Claim for Not Filing” by the due date of the survey; or

(3) Filing the properly completed BE-10 report (comprising Form BE-10A and

Form(s) BE-10B, BE-10C, and/or BE-10D) by May 29, 2015, or June 30, 2015, as required.

(b) *Who must report.* (1) A BE-10 report is required of any U.S. person that had a foreign affiliate—that is, that had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise, including a branch—at any time during the U.S. person’s 2014 fiscal year.

(2) If the U.S. person had no foreign affiliates during its 2014 fiscal year, a “BE-10 Claim for Not Filing” must be filed by the due date of the survey; no other forms in the survey are required. If the U.S. person had any foreign affiliates during its 2014 fiscal year, a BE-10 report is required and the U.S. person is a U.S. Reporter in this survey.

(3) Reports are required even if the foreign business enterprise was established, acquired, seized, liquidated, sold, expropriated, or inactivated during the U.S. person’s 2014 fiscal year.

(4) The amount and type of data required to be reported vary according to the size of the U.S. Reporters or foreign affiliates, and, for foreign affiliates, whether they are majority-owned or minority-owned by U.S. direct investors. For purposes of the BE-10 survey, a “majority-owned” foreign affiliate is one in which the combined direct and indirect ownership interest of all U.S. parents of the foreign affiliate exceeds 50 percent; all other affiliates are referred to as “minority-owned” affiliates.

(c) *Forms to be filed.* (1) Form BE-10A must be completed by a U.S. Reporter. If the U.S. Reporter is a corporation, Form BE-10A is required to cover the fully consolidated U.S. domestic business enterprise. It must also file Form(s) BE-10B, C, and/or D for its foreign affiliates, whether held directly or indirectly.

(2) Form BE-10B must be filed for each majority-owned foreign affiliate for which any of the following three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than \$80